



**PUBLIC HEARING  
BEFORE THE GALLATIN COUNTY COMMISSION**

**MALPELI/WORTMAN APPEAL OF  
CODE COMPLIANCE SPECIALIST  
DECISION ON  
ROBBINS/LARRABASTER**

**FINDINGS OF FACT AND ORDER  
ON AN ALLEGED COMMUNITY  
DECAY VIOLATION**

PURSUANT TO Ordinance 2004-017, which was adopted on September 7, 2004 and amended thereafter, and after legal notice, a public hearing was held before the Gallatin County Commission in Bozeman, MT on April 24, 2007. The purpose of the hearing was to hear an appeal filed by Mapeli and Wortman regarding a March 16, 2007 decision by the Code Compliance Specialist on a community decay complaint, and affirm, withdraw, or modify the March 16, 2007 decision.

THEREFORE, after hearing and considering all public testimony, the Gallatin County Commission makes the following Findings of Fact:

**FINDINGS OF FACT**

1. The Robbins / Larrabaster family own a once-acre parcel located on the east side of U.S. Highway 191 near the intersection with Highway 64 in Big Sky, MT. The parcel is described as Tract 2, Southeast ¼, Southeast ¼, Section 32, Township 6 South, Range 4 East, Gallatin County, MT). A trailer, owned by Frank Larrabaster has been located on the property for over twenty years. The trailer is uninhabited, and is in a dilapidated condition.
2. Ordinance #2004-017-01 regulates, controls, and prohibits conditions that contribute to community decay on or adjacent to all public roadways within Gallatin County.
3. Community Decay is defined as “a public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to

the senses or which obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property.”

4. Pursuant to the Community Decay Ordinance, it is a violation of this Ordinance to own or maintain any public nuisance that results in community decay visible from a public roadway. No person shall accumulate rubble, debris, or refuse that, upon investigation, is deemed to be a public nuisance as defined by this Ordinance. Material that may constitute community decay includes, but is not limited to, bricks, concrete, wood, cardboard, paper, pallets, tires, dead animals/animal parts, dirt, demolition waste, junk vehicles, wrecked trailers, iron, metal, machine parts, appliances, and barrels.
5. The Code Compliance Specialist inspected the Robbins / Larrabaster property on March 9, 2007, and issued a decision on March 16, 2007 that the site does not rise to the level of community decay, as regulated in Ordinance #2004-017.
6. Appellant Jerry Wortman testified that his real concern regarding the Robbins / Larrabaster property is public safety not aesthetics. The public accesses the property on a regular basis, and the trailer is “injurious to health.” Mr. Wortman submitted photographs of the site.
7. Appellant Faith Malpeli testified that she was concerned about safety. People from the Bugaboo restaurant across the street access the property. She recently saw four little boys fishing on the property. Ms. Malpeli testified that she took the photographs entered into the record by Mr. Wortman, and that exhibits A, B, D, and E were taken from a public road. Exhibits B, D, and E were taken with a 200 zoom lense.
8. Vianna Robbins Larrabaster testified that her family originally put the trailer there for recreational purposes. However, they could not get a septic permit because the Wortman’s well was too close to the property line, and they did not want to stay in the trailer with small children without running water. The property had electricity until October 2006. All taxes on the land and trailer are current.
9. Vianna Robbins Larrabaster testified that her father put an outside light on the property, posted no trespassing signs, and put up a gate to deter unauthorized access. The signs were repeatedly stolen, and the gate was taken down.

10. Frank Larrabaster testified that the site does not rise to the qualifications of community decay. Public safety associated with trespassing on private property is another issue.
11. The County Commission found that the definition of community decay is a public nuisance with an accumulation of rubble, debris, junk or refuse that is injurious to health, etc.
12. The County Commission found that “Accumulate” in the Community Decay Ordinance means “to store, gather, collect, heap, or pile up.” There is no accumulation of debris.
13. The County Commission found that the trailer does not have roadway visibility, as required by the Community Decay Ordinance.
14. The County Commission found that the list of items considered in the Ordinance includes wrecked trailers. However, the trailer has a taxable value, and is not decay as intended by the Ordinance.
15. The County Commission found that the alleged violation does not comply with the purpose of the community decay ordinance.

### **ORDER**

Commissioner White made a motion to affirm the March 16, 2007 decision of the Code Compliance Specialist that the Robbins / Larrabaster site does not rise to the level of community decay.

Commissioner Skinner seconded the motion. The motion was unanimously approved in a 2:0 vote.

The Gallatin County Commission hereby affirms the March 16, 2007 decision of the Code Compliance Specialist.

#### **Gallatin County Commission**

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Joe P. Skinner, Chairman

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Date

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R. Stephen White, Member

\_\_\_\_\_  
Date

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Excused  
William A Murdock, Member

\_\_\_\_\_  
Date